Supreme Court, U.S.
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No. 95-694

IN THE
Supreme Court of the United States
OCTOBER TERM, 1995

IN RE: ANNE M. LAMM,
Petitioner

On Petition for a Writ of Certiorari to the North Carolina Supreme Court

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RESPONDENT'S BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

Whether the temporary, emergency suspension of Petitioner's license to practice law based upon an *ex parte* finding that she was using alcohol and mood altering drugs in sufficient amounts to impair her ability to practice law deprived Petitioner of property without due process of law in violation of the Fourteenth Amendment to the United States when Petitioner was afforded a prompt, post-suspension hearing at which her license was restored?

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
TABLE OF AUTHORITIES	iv
STATEMENT OF THE CASE	1
REASONS FOR DENYING THE WRIT	2
CONCLUSION	8
APPENDICES:	
A. April 29, 1993 Petition of PALS Committee	1a
B. Affidavit of Rachel Pickard	5a
C. Affidavit of Betty B. Jenkins	10a
D. April 30, 1993 Order of Gaston County Superior Court	12a
E. Assignments of Error of Petitioner Anne M. Lamm	15a

TABLE OF AUTHORITIES

CASES — Page

Barry v. Barchi, 443 U.S. 55, 99 S.Ct. 2642, 61 L.Ed.2d 365 (1979) 5

Mackey v. Montrym, 443 U.S. 1, 99 S.Ct. 2612, 61 L.Ed.2d 321 (1979) 5

Mathews v. Eldridge, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976) 5

Morrissey v. Brewer, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972) 5

Paul v. Davis, 424 U.S. 693, 96 S.Ct. 1155, 47 L.Ed.2d 405 (1976), *reh. denied*, 425 U.S. 985.... 4

Schware v. Board of Bar Examiners, 353 U.S. 232, 77 S.Ct. 752, 1 L.Ed.2d 796 (1957) 5

CONSTITUTIONAL PROVISIONS

U.S. Const. Amend. 14 4

STATUTES AND REGULATIONS

N.C. App. Rule 28 4

Art. VI, Section 5i(6) of the N.C. State Bar Rules & Regulations 4

IN THE

Supreme Court of the United States

OCTOBER TERM, 1995

No. 95-694

IN RE: ANNE M. LAMM,
Petitioner

On Petition for a Writ of Certiorari to the North Carolina Supreme Court

---

RESPONDENT'S BRIEF IN OPPOSITION

Respondent hereby respectfully requests the Court to deny the Petition for a Writ of Certiorari submitted by the Petitioner, Anne M. Lamm.

STATEMENT OF THE CASE

On April 30, 1993, the Positive Action for Lawyers (PALs) Committee of the North Carolina State Bar [1] filed a verified petition in Gaston County Superior Court, requesting entry of a temporary order suspending the law license of Anne M. Lamm (hereafter, Petitioner), on the ground that Petitioner was using alcohol and mood altering drugs in sufficient amounts to impair her ability to

[1] The North Carolina State Bar is the state agency empowered by statute to govern attorneys in North Carolina. The PALS Committee is a standing committee of the North Carolina State Bar which was created in 1979 by order of the North Carolina Supreme Court to assist chemically dependent lawyers. *See* 302 N.C. 637 (1979). The PALS Committee has a full time Executive Director and a staff assistant who are paid by the N.C. State Bar but is otherwise operated by volunteer attorneys across the state.

practice law. As required by State Bar rule, the petition was filed under seal. Copies of the petition and the two affidavits submitted with it are attached as Appendices A-C.

Later on April 30, 1993, Hon. Robert W. Kirby, then the resident superior court judge of the 27A judicial district, heard the PALS Committee petition *ex parte* and entered an order temporarily suspending Petitioner's law license. Judge Kirby's order (hereafter, April 30 order) provided that Petitioner's license would be restored upon a showing that Petitioner was no longer impaired or after 180 days had elapsed, whichever first occurred. Judge Kirby also ordered that the record remain under seal. Petitioner was served with a copy of the order on May 3, 1993. A copy of the April 30 order is attached as Appendix D.

On June 11, 1993, Petitioner filed a motion to vacate the April 30 order and expunge the court's records. In the alternative, Petitioner asked the court to set aside the April 30 order and grant her a hearing. Following an in-chambers hearing on June 17, 1993, Judge Kirby entered an order finding that Petitioner was no longer impaired and reinstated Petitioner's law license. Judge Kirby denied Petitioner's motion to vacate the April 30 order and expunge the court's records.

REASONS FOR DENYING THE WRIT

Petitioner contends that the question before this Court is whether she was deprived of a constitutionally protected property interest when her license was "revoked" based upon "an ex parte finding that she was using alcohol and mood altering drugs in sufficient amounts to impair her ability to practice law . . . without allowing her any opportunity to challenge this finding . . ." Petitioner's Brief at p. i. Petitioner's formulation of the issue thus creates the impression that she was permanently deprived of a property interest without any hearing whatever.

In fact, Petitioner's law license was temporarily suspended, not revoked, pursuant to an emergency *ex parte* order issued by the Gaston County Superior Court on April 30, 1993, after members of the N.C. State Bar PALS Committee presented evidence demonstrating that Petitioner was abusing alcohol and drugs such that her ability to practice law was impaired. On June 17, 1993, six days after Petitioner's petition was filed, an in-chambers hearing was held and Petitioner's license was reinstated by Judge Kirby.

It is clear, therefore, that Petitioner's license was not "revoked" without a hearing. Rather, her license was temporarily suspended on an emergency *ex parte* basis. Petitioner was granted a prompt post-deprivation hearing and was reinstated to the practice of law at the conclusion of the hearing. Consequently, this Court is not presented with a case in which a licensee has been permanently deprived of a property interest without any hearing.

Close review of Petitioner's brief suggests that her real complaint is that Judge Kirby did not permit Petitioner to challenge the court's findings that she was impaired as of April 30, 1993. As discussed, *supra*, the June 17 hearing focused on whether Petitioner's license should be reinstated, not whether it had been properly suspended in the first place. Petitioner takes the position that her reputation is a constitutionally protected property interest and that due process required the trial court to permit her to attack the April 30 order for the purpose of clearing her name even after her law license was restored on June 17.

Regardless of the merits or demerits of Petitioner's contention, the question of whether Petitioner had a constitutional right to attack the April 30 order is not properly before this Court, as it was not the subject of an assignment of error to the N.C. Court of Appeals. In her assignments of error, Petitioner preserved only two issues for appellate review: 1) whether Rule 5i(6) is vague and

overbroad[2] and 2) whether Petitioner was deprived of notice and an opportunity to be heard before being deprived of her liberty and property, in violation of the Fourteenth Amendment of the U.S. Constitution. *See* Appendix E. Nowhere does Appellant assign error to the fact that she was not permitted at the June 17 post-suspension hearing to challenge the finding that she was impaired as of April 30, 1993.

Even if this issue is properly before the Court, however, there is no support for Petitioner's argument that she had a constitutional right to attack the finding that she was impaired as of April 30 even after her license was reinstated. Appellant's contention turns on the premise that her reputation was damaged by the finding that she was impaired as of April 30 and that she therefore had a right to challenge that finding to clear her name. It is well established, however, that reputation is not a liberty or property interest "by itself sufficient to invoke the procedural protection of the Due Process Clause." *Paul v. Davis*, 424 U.S. 693, 701, 96 S.Ct. 1155, 1161, 47 L.Ed. 2d 405, 414 (1976), *reh. denied*, 425 U.S. 985. Petitioner has failed to cite a single case which holds that a licensee has a constitutional right to challenge the validity of the original emergency suspension of his or her license once the state has restored the license in a prompt post-suspension hearing. Consequently, Petitioner was not deprived of any protected property right by reason of the court's refusal on June 17 to permit her to attack the finding that she was impaired as of April 30.[3]

Although not mentioned in Petitioner's formulation of the issue before this Court, Petitioner contends in her

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[2] Petitioner did not brief this issue on appeal and it was therefore deemed abandoned pursuant to Rule 28 of the N.C. Rules of Appellate Procedure.

[3] The potential significance of Petitioner's case is also diminished by the fact that N.C. State Bar Rule 5i(6) was substantially amended in 1994. Consequently, it is unlikely that the exact circumstances at issue in Petitioner's case will ever recur.

brief that "[f]undamental fairness required that [Petitioner] have an opportunity to present her case before her license was suspended." Petitioner's brief at 8. Petitioner thus also appears to contend that her constitutional rights were violated because the initial emergency suspension order was issued *ex parte*. Petitioner's argument in this regard does not raise any constitutional issues worthy of consideration by this Court, however.

The parties agree that Petitioner's license to practice law constitutes a property interest entitled to constitutional protection. *Schware v. Board of Bar Examiners*, 353 U.S. 232, 238-239, 77 S.Ct. 752, 756, 1 L.Ed.2d 796, 801 (1957). It is also clear that Petitioner's law license was temporarily suspended *ex parte* and that she was granted a prompt, post-deprivation hearing on June 17, 1993. Petitioner's suggestion that her due process rights were violated because there was no hearing prior to the issuance of the emergency suspension order is not an accurate statement of the law. Due process does not invariably require a hearing prior to deprivation of a property interest. "Due process is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S.Ct. 2593, 2600, 33 L.Ed.2d 484, 494 (1972). Determining the dictates of due process in a given case requires a balancing of the private interest at stake against the risk of an erroneous deprivation by the government and the magnitude of the government's interest. *See Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 903, 47 L.Ed.2d 18, 33 (1976).

Where the state has probable cause to believe that the licensee poses an immediate threat to the public, the decisions of this Court clearly hold that the state may temporarily suspend the licensee, provided that there is an opportunity for a prompt post-suspension hearing. *See, e.g., Mackey v. Montrym*, 443 U.S. 1, 19, 99 S.Ct. 2612, 2621, 61 L.Ed.2d 321, 335 (1979); *Barry v. Barchi*, 443 U.S. 55, 99 S.Ct. 2642, 61 L.Ed.2d 365 (1979).

In the instant case, Petitioner concedes that she is an alcoholic. Petitioner's R. 22. For the period of approximately 12 months before the April 30 order was entered, PALS Committee members received reports from various individuals, indicating that Petitioner had appeared at the courthouse during working hours while intoxicated and that she was not completing work for clients on a timely basis. App. B, C. PALS members also received evidence that Petitioner was not cooperating with the clerks of court and that she had stopped attending Alcoholics Anonymous meetings. *Id.* Despite her condition, Petitioner refused assistance from PALS volunteers. App. B.

By early April 1993, the situation had become increasingly serious. A lawyer who shared space with Petitioner reported that Petitioner had not appeared regularly at work for months and that she had appeared at the courthouse, on crutches, while intoxicated. App. B. Later, on April 23, 1993, Petitioner appeared in her office, smelling of alcohol. *Id.* She fell and cut herself so badly over one eye that she had to be transported by ambulance to a local hospital. *Id.* On April 27, just three days before seeking the suspension order, PALS volunteers learned that Petitioner had been arrested for driving while impaired and that she was at that time a patient in the Mercy Hospital detoxification unit. *Id.* The arrest was Petitioner's third charge of driving while impaired. Petitioner's App. 24.

In Petitioner's case, the evidence establishes that Petitioner is an alcoholic and that she had resumed abusing alcohol well before April 1993. Members of the PALS Committee had attempted to persuade Petitioner to seek treatment for more than a year prior to April 1993. It was only when their efforts were rejected and it appeared that Petitioner's situation was rapidly becoming worse that the PALS Committee filed the petition requesting a temporary suspension of Petitioner's law license. The State Bar and the PALS Committee thus had probable cause to believe that Petitioner was impaired and to seek an

emergency temporary suspension of Petitioner's law license.

Moreover, N.C. State Bar Rule 5i(6) provided an opportunity for a prompt, post-suspension hearing. Like the Massachusetts statute at issue in *Mackey v. Montrym, supra,* State Bar Rule 5i(6) permitted Petitioner to seek reinstatement at any time following entry of the order. Thus, while Petitioner did not seek reinstatement until June 11, 1993, she could have done so at any time after entry of the April 30 order. N.C. State Bar Rule 5i(6) thus provides for a very prompt post-suspension hearing and is consistent with the demands of due process.

Petitioner's interest in retaining her law license was outweighed by the N.C. State Bar's interest in protecting the public from an impaired lawyer. The risk of an erroneous suspension was slight and N.C. State Bar Rule 5i(6) provided an opportunity for an immediate post-suspension hearing. The N.C. State Bar had probable cause to believe that the Petitioner was impaired by reason of her drug and alcohol abuse and that she therefore posed a threat to the public, justifying entry of the *ex parte* suspension order. Under the circumstances, the N.C. State Bar was not obliged to provide a hearing prior to the entry of the April 30 order and Petitioner's due process rights were not violated. That being the case, there are no significant constitutional issues justifying the issuance of the writ of certiorari by this Court.

CONCLUSION

The Petitioner has failed to demonstrate that this case involves any significant constitutional issues. The Writ of Certiorari should therefore be denied.

Respectfully submitted,

A. ROOT EDMONSON
(Counsel of Record)
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Nov. 27, 1995

APPENDICES

APPENDIX A

**[Filed Under Seal
CSC Gaston Co., N.C.
April 30, 1993]**

NORTH CAROLINA
GASTON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

File No. ———

IN RE: ANNE M. LAMM,
Respondent.

PETITION

The undersigned petitioners, Rachel Pickard and Robert L. Bradley, allege, as follows:

1. That petitioners are citizens and residents of Gaston County, North Carolina; are active members of the North Carolina State Bar (hereinafter referred to as "Bar"), and petitioners are members of the Positive Action for Lawyers Committee (hereinafter referred to as "the PALS Committee") of the North Carolina State Bar.

2. That this petition is filed pursuant to N. C. Gen. Stat. § 84-21, N. C. Gen. Stat. § 84-28(g) and Article VI, Section 5 i(6), Standing Committees of the Council of the North Carolina State Bar.

3. That the respondent Anne M. Lamm is a citizen and resident of Gaston County, North Carolina, is a mem-

ber of the Bar and is subject to the disciplinary authority granted to the Bar pursuant to the laws of the State of North Carolina and is subject to the disciplinary authority granted to this Court.

4. That the respondent is drinking alcohol and using mood altering drugs in sufficient amounts to impair her ability to practice law in the opinion of the petitioners, the director of PALS and the Executive Director of the Bar.

5. That pursuant to N. C. Gen. Stat. § 84-28(g) and Article VI, Section 5, Standing Committees of the Council of the Bar, this Court has the authority to suspend the license of Anne M. Lamm for a period of 180 days or until such time as said respondent can show unto this Court that she has the mental and physical capacity to practice law, whichever shall first occur.

6. That said suspension should be for a period not to exceed 180 days, or until such time as respondent can show the Court that she has the mental and physical capacity to practice law, whichever shall first occur.

WHEREFORE, the undersigned petitioners pray the Court for an order, as follows:

1. That respondent's license to practice law in the State of North Carolina be temporarily suspended for a period of 180 days from the date of the order or until such earlier date as the respondent upon petition and upon a satisfactory showing proves to the Court that the respondent is no longer using alcohol and/or other mood altering drugs;

2. That respondent be directed to meet with a designee of the PALS Committee to consider appropriate measures to facilitate respondent's recovery;

3. That the Clerk of this Court be directed to place this file under seal and maintain the confidentiality of this file until further orders by this Court;

4. That the Court retain jurisdiction of this matter; and

5. That the Court enter such other orders as may seem just and proper.

This the 29th day of April, 1993.

/s/ Rachel Pickard
RACHEL PICKARD
Attorney at Law

/s/ Robert L. Bradley
ROBERT L. BRADLEY
Attorney at Law

NORTH CAROLINA
GASTON COUNTY

VERIFICATION

Rachel Pickard, being first duly sworn, deposes and says:

She is a petitioner in the above-entitled action; that she has read the foregoing Petition and knows the contents thereof; that the same is true of her own knowledge, except as to those matters and things therein stated upon information and belief, and that as to those maters and things, she believes it to be true.

/s/ Rachel Pickard
RACHEL PICKARD

[Notary Omitted in Printing]

APPENDIX B

**[Filed Under Seal
CSC Gaston Co., N.C.
April 30, 1993]**

NORTH CAROLINA
GASTON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

File No. ———

IN RE: ANNE M. LAMM,
Respondent

AFFIDAVIT

I, Rachel Pickard, being first duly sworn, depose and say as follows:

1. That I am a member of the North Carolina State Bar, the Gaston County Bar and a member of the Positive Action for Lawyers Committee (hereinafter referred to as PALS).

2. That at present there are only two active members of the PALS Committee in Gaston County, namely: myself and Robert L. Bradley.

3. That on April 9, 1992 I received a call from Ernie Machen of the PALS Committee, and he informed me that there had been a call into the Pals Office. This call had originated, I subsequently learned, from an attorney who had been present in the Clerk of Superior Court's office and had observed that Anne M. Lamm had ap-

peared to be intoxicated in the Clerk's office and also acted in an inappropriately argumentative manner with the Assistant Clerks present there.

4. Approximately 1 1/2 years prior to this the PALS Committee had had an inquiry on Ms. Lamm, but at that time I informed Edward Murrelle, Director of PALS, that to the best of my knowledge, and that of Mr. Bradley, Ms. Lamm was not drinking or otherwise chemically dependent, and was sporadically attending, if not involved in, the program of Alcoholics Anonymous (hereinafter AA). It is my understanding that the PALS Committee did not take any action following this first report.

5. However, at the time of the April 9, 1992 call from Mr. Machen, I was of the opinion that Ms. Lamm was not attending local AA meetings on a regular basis.

6. At the time Mr. Bradley was not available to meet with Ms. Lamm, and therefore, I asked Joe Roberts, a local attorney whom I personally know to have been involved with AA many years, to go and talk with Ms. Lamm.

7. On May 12, 1992, Mr. Bradley called me to say that he had observed Ms. Lamm in court the day before and that she appeared to be unsteady on her feet. Also, I talked to attorney Tom Will who said he had observed her at the courthouse, and that she appeared to be impaired and was unsteady on her feet. I confirmed with Betty Jenkins, Clerk of Superior Court of Gaston County, North Carolina, that Ms. Lamm had been in her office, had smelled of alcohol, had been extremely argumentative, and further, was not co-operative in doing the estate work for her clients in a timely manner, and would not turn over documents requested by the Clerks. She told me that in one case Ms. Lamm's client had to send the Sheriff to her office to retrieve the client's papers. I also heard that Ms. Lamm had been observed by an attorney falling in the parking lot behind her office building.

8. At this time it was often extremely difficult to contact Ms. Lamm at her office because for months she would leave her answering machine on, but said machine was broken and would not take a message. Contacting Ms. Lamm has remained a problem for virtually all of the attorneys in Gaston County, the Court, the Clerk and myself for the above reason, and continues to be a problem because she usually does not answer the telephone and will often not return telephone calls.

9. Joe Roberts and I did meet with Ms. Lamm in her office in May, 1992. She agreed to start attending AA meetings again. We ascertained that she was an alcoholic and was presently taking prescription drugs.

10. I understood from Joe Roberts that Anne Lamm did attend one AA meeting after our conference.

11. In June, 1992 I had been approached by a former client of Anne Lamm's who told me Ms. Lamm had refused to make an accounting of monies she had relating to this client's father's estate, and that when the client inquired as to certain matters, Ms. Lamm screamed at the client in an irrational manner. I talked to this lady, and in a day or two, referred the case to Tom Kakassy, deciding it was inappropriate for me to take the case. Mr. Kakassy had many difficulties communicating with Ms. Lamm thereafter.

12. Mr. Roberts did talk to Ms. Lamm personally about her failure to attend the AA meetings she had promised, and she had no satisfactory reply.

13. Mr. Roberts and I again met with Ms. Lamm in the Fall of 1992 and she basically told us that she did not want any assistance from us as individuals, as AA members or as members of the Pals Committee. I subsequently informed Eddie Murrelle of this conversation, and we agreed that the PALS program would close this case as Ms. Lamm did not want nor would accept any help.

14. In January, 1993 Ms. Jenkins stopped me and told me that Ms. Lamm had been in her office and again smelled of alcohol, and that she was not doing her estate work in a timely manner. About this time Curtis Harris, a member of the Gaston Bar active in AA, said he had seen Ms. Lamm in District Court and on that occasion her speech had been incoherent.

15. In approximately February, 1993 I asked Eddie Murrelle if I could try and talk with Ms. Lamm one more time, as clerks and lawyers were by now stopping me in the halls and asking what could be done about her situation. Curtis Harris told me he was willing to go talk with her as he considered her a friend and had represented her at her probationary driver's license hearing some two or three years previously. Mr. Murrelle obtained permission from the lawyer who represented Ms. Lamm before the State Bar Grievance Committee to contact her regarding assistance offered by PALS.

16. Again we had a great deal of difficulty reaching Ms. Lamm at her office. Then, I learned from Attorney Robert Lawing, who shares office space with her, that she had broken her leg, and had been at the Courthouse in an inebriated state while on crutches. He authorized me to use his name in talking with her, and informed me that she was not and had not been for many months appearing at her office on a regular basis.

17. Mr. Harris and I ran Ms. Lamm down in her office on April 8, 1993. She said she would start going to AA meetings once she could get around better on her leg.

18. On the morning of April 23, 1993, Mr. Lawing called me and said that Ms. Lamm was in the office that morning, smelled of alcohol, and had fallen and cut herself over her eye badly. Before I could contact Bob Bradley, Mr. Lawing called again and said she had fallen again in the office, and he asked me to call the rescue squad as she would not go home or take herself to the hospital as he had asked her.

19. I did call the Rescue Squad which took her to Gaston Memorial Hospital, although she was released from the Emergency Room later that day.

20. Mr. Lawing informed me on April 27, 1993 that Ms. Lamm had not come to the office that day, and that when she did he was going to have to inform her that she could no longer rent office space because she had been intoxicated on two occasions in their offices within the last month.

21. I learned yesterday that Ms. Lamm was arrested for driving while impaired in Mecklenburg County on April 25, 1993, and is currently in the detox unit of Mercy Hospital in Charlotte, North Carolina.

22. In my opinion Ms. Lamm currently has a severe problem with alcohol so as to cause her to be imminent danger of committing malpractice, and I also consider this to be an ongoing problem that has only gotten worse with time.

This the 28th day of April, 1993.

/s/ Rachel Pickard
RACHEL PICKARD
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[Notary Omitted in Printing]

APPENDIX C

**[Filed Under Seal
CSC Gaston Co., N.C.
April 30, 1993]**

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

File No. ———

NORTH CAROLINA

GASTON COUNTY

IN RE: ANNE M. LAMM,
Respondent

AFFIDAVIT

I, Betty B. Jenkins, Clerk of Superior Court of Gaston County, North Carolina, being first duly sworn, depose and say as follows:

1. That Mr. Fletcher came into my office on December 22, 1992 and talked with me about the estate of his daughter. He informed me that he had been unable to get in touch with his attorney, Anne Lamm, and that he was going to prepare the Final Inventory himself.

2. On January 22, 1993 Mr. Fletcher again came into our office and was very upset. He told my Clerk, Mary Ann Auten, that an Amended 90 Day Inventory might need to be filed in the estate, and he said that Ms. Lamm had been drunk in her office the last time he had met with her.

3. The next Monday, on January 25, 1993 Mr. Fletcher came back to our office with Ms. Lamm, at which time he denied to me and my staff that he had said

Ms. Lamm had ever been intoxicated, which was exactly opposite of what he had told us three days previously.

4. At that time, I told Mr. Fletcher that from thence forward his attorney would be the only one to deal with the Clerk's Office regarding that particular estate, and I asked him to leave.

5. I also asked Ms. Lamm to leave, saying "Anne you need to leave as well because you have been drinking." She denied this, but I did smell the odor of alcohol about her person.

This the 30th day of April, 1993.

/s/ Betty B. Jenkins
BETTY B. JENKINS
Clerk of Superior Court
of Gaston County
Gaston County Courthouse
Gastonia, NC 28052
(704) 868-5810

[Notary Omitted in Printing]

APPENDIX D

**[Filed Under Seal
CSC Gaston Co., N.C.
April 30, 1993]**

NORTH CAROLINA
GASTON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

File No. ———

IN RE: ANNE M. LAMM,
Respondent.

ORDER

THIS MATTER COMING ON TO BE HEARD in the chambers before the undersigned Resident Superior Court Judge of the Twenty-Seventh A Judicial District on the Petition of Rachel Pickard and Robert L. Bradley in this cause, and the Court having considered the petition and the affidavits of Rachel Pickard and Betty B. Jenkins, makes the following:

FINDINGS OF FACT

1. Anne M. Lamm is a citizen and resident of Gaston County, North Carolina, and is licensed by the North Carolina State Bar to practice law within the State of North Carolina and is subject to the jurisdiction of the North Carolina State Bar and the inherent power of this Court;

2. Two members of the Positive Action for Lawyers Committee of the North Carolina State Bar, namely Robert I. Bradley and Rachel Pickard, are of the opin-

ion that Anne M. Lamm is drinking alcohol and using mood altering drugs in sufficient amounts to impair her ability to practice law, and the Executive Director of the State Bar and the Director of the PALS Committee concur in that opinion;

3. The respondent is drinking alcohol and using mood altering drugs in sufficient amounts to impair her ability to practice law; and

4. The proceedings in this matter should be sealed.

Based upon the foregoing FINDINGS OF FACT, the Court makes the following:

CONCLUSIONS OF LAW

1. Anne M. Lamm is licensed by the North Carolina State Bar to practice law in the State of North Carolina and is subject to the jurisdiction of the North Carolina State Bar and the inherent power of this Court;

2. Anne M. Lamm is drinking alcohol and using mood altering drugs in sufficient amounts to impair her ability to practice law;

3. The license of Anne M. Lamm to practice law in the State of North Carolina should be suspended for a period not to exceed 180 days or until such earlier date that this Court finds that Anne M. Lamm is no longer drinking alcohol and using mood altering drugs in sufficient amounts to impair her ability to practice law;

4. The petition and proceedings in this cause shall be sealed.

NOW, THEREFORE, IT IS HEREBY ORDERED, AS FOLLOWS:

1. The license of Anne M. Lamm to practice law in the State of North Carolina shall be, and the same is hereby, suspended for 180 days from the date of this Order, or until such earlier date as this Court shall find

that Anne M. Lamm is no longer drinking alcohol or using mood altering drugs in sufficient amounts to impair her ability to practice law;

2. All proceedings in this matter shall be sealed;

3. A copy of this Order shall be served upon Anne M. Lamm; and

4. Jurisdiction of this matter is retained for the entry of further orders.

This the 30th day of April, 1993.

/s/ Robert W. Kirby
Resident Superior Court Judge
Gaston County, North Carolina

APPENDIX E

ASSIGNMENTS OF ERROR BY APPELLANT

The trial court erred by entering its Order suspending Petitioner's license to practice law (R pp 10-11) and by denying Respondent's Rule 60(b)(4) Motion and Motion to Set Aside Order (R p 12) because:

1. Article VI, § 5i(6) of the Rules of the North Carolina State Bar, pursuant to which the proceeding below was brought, is vague and overbroad and substantively arbitrary, in violation of Article I, § 19 of the North Carolina Constitution and the Fourteenth Amendment to the United States Constitution.

2. The course of proceedings below and Article VI, § 5i(6) of the Rules of the North Carolina State Bar have, by their failure to give Respondent notice or an opportunity to be heard before being deprived of her liberty and property, violated the Fourteenth Amendment to the United States Constitution and Article I, § 19 of the North Carolina Constitution.

R pp 10-11, 19-25.